

### **REMARKS**

The present amendment is in response to the Office Action, dated April 13, 2004, where the Examiner has rejected claims 1-14, 16-22 and 24-31, and has objected to claims 15 and 23. By the present amendment, applicants have cancelled claims 2-3 and 25-26, and have amended claims 1, 6, 7, 10, 24 and 29. Accordingly, after the present amendment, claims 1, 4-24 and 27-31 are pending in the application. Reconsideration and allowance of pending claims in view of the amendments and the following remarks are respectfully requested.

#### **A. Objection to the Specification**

The Examiner has objected to the specification and claims for inconsistent use of MIRS ("Modified Intermediate Reference System"). By the present amendment, applicants have amended claims 7 and 29 to replace the word "Response" with --Reference--. Accordingly, applicants respectfully submit that the Examiner's objection has been overcome.

#### **B. Rejection of Claims 1-4, 11-14, 16-18, 20-21, 24-27 and 31 under 35 USC § 103(a)**

The Examiner has rejected claims 1-4, 11-14, 16-18, 20-21, 24-27 and 31 under 35 USC § 103(a) as being unpatentable over Kroon (USPN 5,664,055) ("Kroon") in view of Kurdziel (USPN 5,692,098) ("Kurdziel"). Applicants respectfully disagree.

The Examiner states that Kurdziel discloses "determining whether a slope of the representative sample (initial analysis frames; column 3, lines 42-52) of the speech signal conforms to a defined characteristic slope stored in a reference database of spectral characteristics (column 4, lines 46-54); and selecting a value of a coding parameter (pre-

emphasis filter or a high-pass filter; column 3, lines 40-41) for application to the speech signal for coding based on the determination on the slope of the representative sample (initial analysis frames; column 3, lines 6-52).”

However, the Examiner’s statements regarding the disclosure of Kurdziel does not conform with the sequence of the steps taught by Kurdziel. For example, Kurdziel clearly teaches that the pre-emphasis FIR high pass filter 12 receives the raw speech 10 and equalizes the spectral magnitudes of the speech waveform, which in effect flattens the spectrum for voiced speech. (Col. 2, line 65 - Col. 3, line 7.) Further, Kurdziel states that filter may also be a conventional 1 KMz high pass RC filter. (Col. 3, lines 40-41.) Kurdziel states that the raw speech 10 is filtered to equalize the spectral amplitudes, i.e., remove any spectral tilt. Next, Kurdziel states that the pre-emphasized and filtered speech from the filter 12 is applied to a segmentation circuit 14 where the speech is segmented into initial analysis frames, i.e., the number of samples in each speech frame. These segments are then processed to determine the spectral magnitudes.

Now, even assuming, arguendo, that Kurdziel teaches “determining whether a slope of the representative sample of the speech signal conforms to a defined characteristic slope stored in a reference database of spectral characteristics” in the segmentation circuit 14 for initial analysis frames, which it does not, the segmentation circuit 14 Kurdziel occurs after the raw speech 10 is pre-emphasized and filtered by filter 12. Therefore, in Kurdziel, “selecting a value of a coding parameter, for coding the speech signal, based on the determining step” cannot be based on the result of the determination in the determining step, because filter 12 is applied prior to the segmentation circuit 14, which the Examiner asserts to be determining the slope. Further, claim

1 has been amended to clarify that “the selecting step selects a first coding parameter value as the value if the determining step determines that the slope of the representative sample of the speech signal conforms to the defined characteristic slope, and wherein the selecting step selects a second coding parameter value as the value if the determining step determines that the slope of the representative sample of the speech signal is generally flat.” Thus, unlike Kurdziel, the selection of the first coding parameter value or the second coding parameter value depends upon the determination as to whether a slope of the representative sample of the speech signal conforms to a defined characteristic slope stored in a reference database of spectral characteristics.

Accordingly, applicants respectfully submit that claim 1, as amended, is patentably distinguishable over the cited references, and claim 1 and its dependent claims 4, 11-14, 16-18 and 20-21, should be allowed.

Further, independent system claim 24, which includes limitations similar to those of independent method claim 1, has been amended for clarification purposes to state that “the selector selects a first coding parameter value as the value if the evaluator determines that the slope of the representative sample of the speech signal conforms to the defined characteristic slope, and wherein the selector selects a first coding parameter value as the value if the evaluator determines that the slope of the representative sample of the speech signal is generally flat.” Accordingly, applicants respectfully submit that claim 24, as amended, and its dependent claims 27 and 31 should also be allowed at least for the reasons stated above in conjunction with patentability of claim 1.

**C. Rejection of Claims 5-7, 19 and 28-29 under 35 USC § 103(a)**

The Examiner has rejected claims 5-7, 19 and 28-29 under 35 USC § 103(a) as being unpatentable over Kroon in view of Kurdziel, and further in view of well known prior art. Applicants respectfully disagree.

Applicants respectfully submit that claims 5-7 and 19 depend from claim 1 and claims 28-29 depend from claim 24, and they should be allowed at least for the reasons stated above in conjunction with patentability of claims 1 and 24.

**D. Rejection of Claims 8-10, 22 and 30 under 35 USC § 103(a)**

The Examiner has rejected claims 8-10, 22 and 30 under 35 USC § 103(a) as being unpatentable over Kroon in view of Kurdziel, and further in view of Miseki, et al. (USPN 5,864,798) ("Miseki"). Applicants respectfully disagree.

Applicants respectfully submit that claims 8-10 and 22 depend from claim 1 and claim 30 depends from claim 24, and they should be allowed at least for the reasons stated above in conjunction with patentability of claims 1 and 24.

**E. Rejection of Pending Claims under the Judicially Created Doctrine of Obviousness-Type Double Patenting**

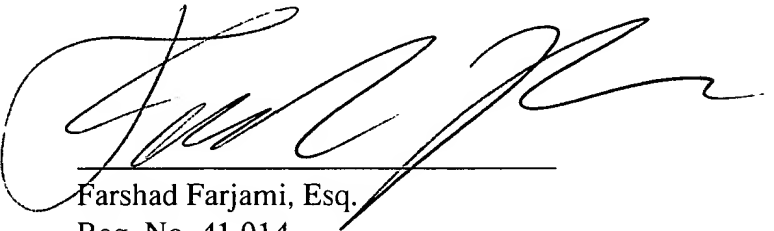
The Examiner has rejected claims 1-31 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4, 6-9, 11, 13, 15-30, 32 and 34-38 of co-pending Application Serial No. 09/781,735, assigned to the assignee of the present application, Mindspeed Technologies, Inc. Along with the present amendment, applicants have submitted a terminal disclaimer to overcome the Examiner's rejection of claims

1-31 under the judicially created doctrine of obviousness-type double patenting over claims 1-2, 4, 6-9, 11, 13, 15-30, 32 and 34-38 of co-pending Application Serial No. 09/781,735. Applicants respectfully submit that the enclosed terminal disclaimer overcomes the Examiner's rejection.

**F. Conclusion**

For all the foregoing reasons, an early allowance of claims 1, 4-24 and 27-31 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;  
FARJAMI & FARJAMI LLP

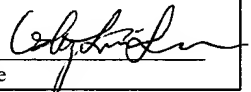
  
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